

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DR. LUIS G. GUILLEN,)
Plaintiff,)
v.) CIVIL NO: 03-cv-4236-JPG
SOUTHERN ILLINOIS HOSPITAL)
SERVICES, D/B/A MEMORIAL)
HOSPITAL OF CARBONDALE, A)
CORPORATION; GEORGE MARONEY;)
WILLIAM M. SHERWOOD;)
JOHN DOE; JANE DOE; JOHN SMITH)
and JANE SMITH,)
Defendants.)

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Dr. Luis G. Guillen’s (“Guillen”) motion to voluntarily dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) (Doc. 82). On March 8, 2006, the Court informed Guillen that as a condition of dismissal without prejudice, the Court would order Guillen to pay the defendants’ fees and costs associated with work that would not be useful in subsequent litigation of the same claim. *See Cauley v. Wilson*, 754 F.2d 769, 772 (7th Cir. 1985). The Court found that such expenses in this case were those incurred in (1) preparing the Final Pretrial Order, (2) preparing for and attending the Final Pretrial Conference, (3) reviewing and responding to Guillen’s *pro se* motions and (4) litigating matters directly related to Guillen’s request to voluntarily dismiss this case. The defendants filed a bill of costs, including attorney’s fees, for such matters on March 17, 2006, setting forth costs and attorney’s fees in the amount of \$22,837.32.

The Court also gave Guillen an opportunity to avoid that condition by requesting dismissal with prejudice or by withdrawing his motion to dismiss and proceed to trial. The Court gave Guillen

until March 21, 2006, to chose one of these alternatives to dismissal without prejudice with the aforementioned conditions, but Guillen did not take advantage of this opportunity or in any other way respond to the defendants' bill of costs.

The Court has reviewed the bill of costs submitted by the defendants (Doc. 85). The Court notes that the defendants have included several items of costs and attorney's fees that are for preparation of the motion for summary judgment, are not associated with the four tasks set forth in the Court's March 8 order and may be useful in subsequent litigation of the same claims. The Court will deny those items and will order Guillen to pay costs and fees for the remaining items in the amount of \$8,352.

For the reasons set forth in the Court's March 8, 2006, order, the Court

- **GRANTS** Guillen's motion to dismiss this case without prejudice (Doc. 82);
- **DISMISSES** this case without prejudice;
- **ORDERS** that Guillen shall pay \$8,352 in costs and fees;
- **DIRECTS** the Clerk of Court to enter judgment accordingly;
- **FINDS** that the defendants' pending motion for summary judgment (Doc. 63) is **MOOT**; and
- **DIRECTS** the Clerk of Court to fax this order and the judgment in this case to Guillen at (787)991-0136 in addition to mailing it to him.

IT IS SO ORDERED.

DATED: March 29, 2006

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE